

REMARKS

At the time the present Final Office Action was mailed (August 17, 2005) claims 1-32 and 57-60 were pending. None of the claims have been amended or cancelled in this response. Accordingly, claims 1-32 and 57-60 remain pending.

In the August 17, 2005 Office Action, all the pending claims were rejected under 35 U.S.C. § 103(a) on the basis of U.S. Patent No. 5,700,127 to Harada et al. in view of U.S. Patent No. 6,663,333 to Kinnard et al. ("Kinnard"), either in combination with each other, or in combination with each other and one or more of the following references: U.S. Patent No. 6,716,330 to Hongo et al., U.S. Patent No. 5,168,886 to Thompson et al., U.S. Patent No. 5,378,145 to Ono et al., U.S. Patent No. 5,371,678 to Zila et al., and/or Published U.S. Application No. 2001/0043856 to Woodruff et al ("Woodruff"). Furthermore, the claims were rejected on the basis of non-statutory double-patenting in light of U.S. Patent No. 6,752,584 in combination with one or more of the foregoing references.

The undersigned attorney wishes to thank the Examiner for engaging in a telephone interview on November 3, 2005 to discuss the pending claims and the applied references. During the telephone interview, the undersigned attorney and the Examiner discussed a Rule 131 Declaration (based upon the published Woodruff application identified above) to overcome the outstanding Section 103 rejections. The Examiner also identified an additional patent (U.S. Patent No. 6,749,391) as providing the basis for a non-statutory double-patenting rejection. The following remarks reflect the substance of the November 3 interview discussion.

A. Response to the Section 103 Rejections

Claims 1-32 and 57-60 were rejected under Section 103 on the basis of Kinnard in combination with one or more of the other references identified above. In an effort to expedite prosecution of the present application, the undersigned attorney submits the enclosed Declaration of Randy Harris and Daniel J. Woodruff Under 37 C.F.R. § 1.131,

enclosed Declaration of Randy Harris and Daniel J. Woodruff Under 37 C.F.R. § 1.131, swearing behind the filing date of the Kinnard reference, without commenting on or conceding the merits of Kinnard as a basis for rejecting any of the claims pending in this application. The enclosed Declaration provides corroboration for a conception date and a constructive reduction to practice prior to the filing date of the Kinnard reference for, *inter alia*, the subject of independent claims 1, 21, and 28. Therefore, the Section 103 rejections of claims 1, 21, and 28 should be withdrawn.

Claims 2-20 and 57-60 depend from claim 1, claims 22-27 depend from claim 21, and claims 29-32 depend from claim 28. These claims are patentable over the applied references because the references do not fairly teach or suggest the features of these dependent claims. Furthermore, Kinnard appears not to be available as a prior art reference (in light of the enclosed Rule 131 Declaration) for at least several of these claims (e.g., claims 7, 9, 10, 11, 57, 19, 58, and 59). Accordingly, the Section 103 rejections of claims 2-20, 22-27, 29-32 and 57-60 should be withdrawn.

B. Response to the Double-Patenting Rejections

The pending claims were rejected on non-statutory double-patenting grounds on the basis of U.S. Patent No. 6,749,391 and U.S. Patent No. 6,752,584. In light of the enclosed Terminal Disclaimers, the double-patenting rejection should be withdrawn.

In view of the above remarks, applicants believe the pending application is in condition for allowance. If the Examiner believes a telephone conference would further expedite issuance of a Notice of Allowance, he is encouraged to contact the undersigned attorney at (206) 359-3257.

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Respectfully submitted,

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